

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOHN E. HOWELL, III,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
GREEN MOUNT LAKES APARTMENTS,)	
a corporation,)	
)	
Defendant.)	

DEFENDANT’S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332(a), 1441(a), and 1446(a), Defendant Green Mount Lakes Apartments, LLC, (hereinafter “Defendant”), through its respective attorneys, gives notice of its removal of this case to the United States District Court for the Southern District of Illinois on the grounds set forth below:

1. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332(a). Therefore, it is removable pursuant to 28 U.S.C. § 1441(a).
2. On September 2, 2015, Plaintiff filed his Complaint in the Circuit Court of St. Clair County, Illinois, under docket number 15 L 494, which is entitled John E. Howell, III, v. Green Mount Lakes Apartments, LLC. (See Complaint, attached as Exhibit 1).
3. Plaintiff’s lawsuit arises out of an alleged fall on Defendant’s premises that occurred in St. Clair County, Illinois, on July 22, 2015. (Ex. 1 ¶ 1). Plaintiff alleges he was walking down a flight of steps in a common area when a step broke, and he fell and sustained injuries as a result. (Ex. 1 ¶¶ 1, 3).
4. Plaintiff seeks relief under a common law negligence theory, specifically one of premises liability. (Ex. 1 ¶ 2).

5. Defendant was served on September 3, 2015. (*See* Summons Copy, attached as Exhibit 2).

6. Defendant's removal is timely because it was filed within thirty days of September 3, 2015. 28 U.S.C. § 1446(b).

7. Removal to the United States District Court for the Southern District of Illinois is proper under 28 U.S.C. § 1441(a) because it includes St. Clair County. 28 U.S.C. § 93(a)(1).

GROUND FOR REMOVAL

8. Under 28 U.S.C. Section 1332(a), diversity jurisdiction exists when a cause of action is between citizens of different states and the amount in controversy exceeds \$75,000.00 exclusive of interests and costs.

9. On information and belief, at the time of the commencement of this action and at all times relevant, Plaintiff was and is a citizen of the State of Illinois.

10. On information and belief, at the time of the commencement of this action, Defendant was a dissolved corporation as of August 18, 2015. However, at the time of the events described within Plaintiff's Complaint and at all times relevant, Defendant was a Missouri corporation with its principal place of business in Missouri. Accordingly, Defendant was a resident and citizen of the State of Missouri.

11. On information and belief, at the time of the events described within Plaintiff's Complaint, Defendant no longer owned, operated, or controlled the property known as Green Mount Lakes Apartments. The true owner of the subject property was and is SEC Accommodator, LLC.

12. In a telephone conversation on October 2, 2015, Defense counsel advised Plaintiff's counsel of the true owner's identity with the understanding Plaintiff would amend his

Complaint accordingly.

13. However, at the time of the commencement of this action and at all times relevant, SEC Accommodator, LLC, was and is a Delaware corporation with its principal place of business in Nebraska. Accordingly, SEC Accommodator, LLC was and is a resident and citizen of the State of Nebraska.

14. Thus, regardless of whether the entity named as a defendant in this matter is Green Mount Lakes Apartments, LLC or SEC Accommodator, LLC, the citizenship of the parties is diverse for purposes of 28 U.S.C. § 1332.

15. Upon information and belief, Plaintiff seeks recovery in excess of \$75,000.00. In his Complaint, Plaintiff claims to have incurred medical expenses for injuries to various body parts, along with future medical expenses, future pain and suffering, permanent disability and disfigurement, as well as lost wages. (Ex. 1 ¶¶ 3, 4).

16. In addition, Plaintiff prays for damages in excess of \$50,000.00 and seeks judgment in favor of Defendant along with costs of the suit. (Ex. 1 Prayer for Relief).

17. The allegations in Plaintiff's Complaint have given Defendant a good-faith belief that the amount in controversy exceeds \$75,000.00.

18. As required under 28 U.S.C. § 1446(d), Defendants will immediately file a copy of this Notice with the Clerk of the Circuit Court of St. Clair County, Illinois, and will serve a copy of same upon Plaintiff's counsel.

19. This notice of removal is signed pursuant to Federal Rule of Civil Procedure 11 as required by 28 U.S.C. § 1446(a).

WHEREFORE Defendant Green Mount Lakes Apartments, LLC, gives notice that the action pending against it in the Circuit Court of St. Clair County, Illinois, has been removed from

that court to the United States District Court for the Southern District of Illinois.

Respectfully submitted,

/s/ Amy L. Friederich
C. Zachary Vaughn, #6288673
Amy L. Friederich, #6312844
WIEDNER & McAULIFFE, LTD.
8000 Maryland Ave., Suite 550
St. Louis, Missouri 63105
(314) 721-3400 – telephone
(314) 725-5755 – fax
czvaughn@wmlaw.com
alfriederich@wmlaw.com
Attorneys for Defendant

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was sent via United States mail, postage pre-paid, this 5th day of October, 2015, to the following counsel of record:

Brad L. Badgley
Brad L. Badgley, P.C.
26 Public Square
Belleville, Illinois 62220
Attorney for Plaintiff

/s/ Amy L. Friederich